

LOCAL LAW NO. 5 OF 2021

**A LOCAL LAW REQUIRING PILOT AGREEMENTS
FOR SOLAR FACILITIES THAT QUALIFY FOR EXEMPTION
UNDER §487 OF THE NEW YORK STATE REAL PROPERTY LAW**

Purpose. This Local Law is adopted to ensure that the benefits of the community's solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT) agreement, granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

Authority. This Local Law is adopted under the authority granted by Article IX of the New York State Constitution, §2(c)(8), New York Statute of Local Governments, § 10 (5), New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(8), and New York Real Property Tax Law § 487(9).

Legislation.

The following shall be added to the Town Code of the Town of Deerpark as a new § _____:

- "Annual Payment" – the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).
- "Annual Payment Date" – January 1st of each year.
- "Owner" – the owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.

The following shall be added to the Town Code of the Town of Deerpark as new § _____

____. PILOT Agreements.

1. PILOT Required.

- a. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town of Deerpark consistent with the terms of this Local Law, except for Residential Solar Energy Systems and Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).
- b. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar

Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

- c. Upon receipt of a complete application by the Planning Board from an owner or other person of intent to install a Solar Energy System, the Planning Board/Assessor's Office shall immediately, but in no case more than Sixty (60) days after receipt of the application, notify the owner or other person of the mandatory requirement for a PILOT Agreement pursuant to the terms of this Local Law.
- d. Nothing in this Local Law shall exempt an applicant from any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system without separate approval from the appropriate boards/agencies within the Town. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.

2. Contents of PILOT Agreements.

- a. Each PILOT Agreement entered into shall include, at a minimum:
 - i. Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.
 - ii. The SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.
 - iii. A requirement for Fifteen (15) successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487.
 - iv. The Capacity of the Solar Energy System, and a provision that if the Capacity is increased or decreased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy Equipment, the annual payments shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.
 - v. That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System, only, shall be considered exempt from real property taxes for the Fifteen (15) year life of the PILOT Agreement and that the subject property remains, nonetheless, taxable.

- vi. That the PILOT Agreement may not be assigned without the prior written consent of the Town of Deerpark, which consent may not be unreasonably withheld.
 - vii. That a Notice of this Agreement may be recorded by the Owner at its expense, and that the Town of Deerpark shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.
 - viii. That if the Annual Payment is not paid when due, and upon failure to cure within thirty (30) days, the Town of Deerpark may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.
3. **Severability.** Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE TOWN LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE TOWN TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK, SECTION 10. THE TOWN HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.